

activity” and that an ordinary practitioner would be motivated to compare commercially approved agents in the method of Beutler.

In response, Applicants have been unable to identify the specific basis on which Hausheer is submitted to be relevant to the claimed invention, or how it is combinable with the other references. Applicants agree that they did not “invent” irinotecan or TAS per se, but that is not what is claimed. Thus, it is submitted that the Examiner has failed to show, without the use of inappropriate hindsight, that Hausheer is properly combinable with the other references, and has failed to adequately explain how Hausheer thereby obviates the claimed invention.

Moreover, according to the Action, Hausheer correlates cytotoxic activity with therapeutic efficacy. As such, one of skill would in no way be motivated to in any way reduce cytotoxicity for fear that such reduction would be accompanied by a concomitant reduction in efficacy. Thus, if anything, Hausheer teaches away from a combination with the primary references.

#### **E. Conclusion**

In conclusion, therefore Applicants submit that the subject claims are free of the prior art and respectfully request a favorable action.

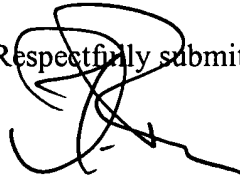
### **III. REQUEST FOR EXTENSION OF TIME**

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions for an extension of time of two months to and including June 4, 2001 in which to respond to the Office Action dated January 4, 2001. Pursuant to 37 C.F.R. § 1.17, a check in the amount of \$190.00 is enclosed, which is the process fee for a two-month extension of time. If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the

enclosed materials, or should an overpayment be included herein, the Assistant Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/10023060/DP01982.

The Examiner is invited to contact the undersigned attorney at (512) 418-3055 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: June 1, 2001